



Eurobodalla Shire Council  
Email: council@esc.nsw.gov.au

21 June 2018

Dear Dr Dale,

**RE: Rural Lands Planning Proposal**

South East LLS supports the stated goals of the Rural Land Use Strategy in particular Goal 1- to maximise the prospects for a vibrant commercial agriculture sector in the Eurobodalla. South LLS is supportive of a number of the initiatives however, many aspects of the Planning Proposal could adversely impact productive agricultural land and the environmental assets of the shire.

This submission focusses on the areas of concern for South East LLS.

**Item 1: Additional Land Uses**

RU1: Primary Production

The protection of high value agricultural land for productive use is vital, especially if the Eurobodalla is to have a vibrant agricultural sector. The Rural Opportunities and Constraints Report<sup>1</sup> commissioned by ESC noted that *“it is important that land suited to agricultural production is clearly identified for agricultural uses and separated from conflicting uses, particularly rural residential and urban settlement.”*

The Planning Proposal applies a ‘blanket’ zoning of RU1 to a range of land types and proposes to increase the uses, many of which may not be compatible with primary production or rural industry expansion. Diluting the ability of zoning to align land use to land type in this way may limit ESCs ability to make strategic land use decisions, particularly in relation to protecting productive agricultural land.

LLS agrees that some of the additional uses could support rural and nature-based tourism, community use and infrastructure needs but it is important that such developments are not sited over productive agricultural land.

South East LLS supports RU1 zoning being applied to areas of productive agricultural land rather than being applied as a blanket zoning across a range of land capabilities. Land use decisions in this zone should be assessed based on the impact of that development on the objectives of the zone, namely agricultural production.

**Recommendation**

<sup>1</sup> RMCG., 2014, Eurobodalla Shire Rural Opportunities and Constraints, Vol 1 Report. Available at <http://www.esc.nsw.gov.au/inside-council/project-and-exhibitions/rural-lands-strategy/rural-opportunities-and-constraints-report-and-maps/Rural-Op-and-Constraints-Report-Vol-1.pdf>  
Accessed 14 June 2018

South East LLS recommends ESC make additional provisions to protect identified high value productive agricultural land. This could include zoning all highly productive land RU1.

### E2 – Environmental Conservation

In the Eurobodalla the E2 zone has been applied to wetland and riparian lands. The impact of grazing on wetlands, riparian vegetation, soils and water quality is significant. South East LLS has invested millions of tax payer dollars in the Eurobodalla restoring wetland and riparian systems from the impacts of grazing and protecting these areas through exclusion of grazing.

The NSW Marine Estate Management Authority recently undertook an evidence-based threat and risk assessment for the NSW marine estate, including estuaries and wetlands. This assessment found that in the South East, including in the Eurobodalla, that agricultural diffuse runoff and stock grazing of riparian vegetation provides the highest threat to estuarine environmental assets. These are the estuaries which support our oyster and tourism industries.

Exempting grazing in E2 zones does not allow proper consideration of the impact of grazing on those sensitive estuarine and riparian environments that are not protected by State Environmental Planning Policy (Coastal Management) 2018. This could lead to confusion and uncertainty for landholders and as mentioned in Vol 1 Appendix 1 of the Rural lands Planning Proposal, *'increase the 'potential for threatened species, populations or ecological communities or their habitats to be adversely affected'*.

The cost of restoring these ecosystems from the impacts of grazing is significant and our capacity to restore their full ecological function is limited. Funding availability for these types of works from State and Australian Governments has been drastically reduced in recent years and continues to be in decline. Ensuring that intact areas are not damaged by grazing is the most efficient and cost-effective way to protect these important areas.

### **Recommendation**

South LLS encourages ESC to reconsider exempting grazing in E2 zones.

## **Item 2: Apply minimum averaging provisions to RU4 zones**

South East LLS supports the small lot farming objectives of RU4 and notes there is considerable potential for small lot and lifestyle farming in the Eurobodalla. However, as already mentioned the fragmentation of high quality agricultural land is a concern for industry in the Eurobodalla. In addition, the impacts of smaller lot sizes on biosecurity and native vegetation through clearing on small land parcels can be significant.

South East LLS recommends planning for subdivisions minimises the impact on productive agricultural lands and intact native vegetation and are in adherence with the NSW Biosecurity Strategy 2013-2021 and State policy objectives in relation to biosecurity.

## Item 5: Zoning and minimum lot sizes

South East LLS acknowledges that the Planning Proposal does offer a level of protection from further fragmentation of agricultural lands through the application of larger minimum lot sizes (over 100ha) and application of the SEPP Rural Lands 2008. However, a large area of productive lands are not currently protected in this way.

Of the 22,000 ha of land in Rural Zones that may be classed as highly productive agricultural land (Agricultural Classes 1 to 4 of the Department of Primary Industry 5 Class System) just over half is within holdings over 100 ha<sup>2</sup>. This means significant fragmentation has already occurred and areas of productive agricultural land will be subject to further fragmentation pressure due to reduced minimum lot sizes, additional use, dwelling establishment and future subdivision pressure.

Areas of most concern include those areas classified within Agricultural Classes 1-4 where the minimum lot size has been reduced to 40ha or less. These areas are mostly on the coast and subject to other land use pressures.

The majority of potential additional dwellings (235) are proposed in RU1 and RU4 Zones. Clearing on small parcels of land for dwellings, effluent management, asset protection zones, fence lines and road does not require approval from LLS.

Special restrictions apply to rural zone land where sensitive and vulnerable regulated land is identified on the Native Vegetation Regulatory map. The Biodiversity Values map also identifies restrictions that apply to urban and environmental zone land. South East LLS encourages ESC to explore opportunities to align land use zoning to regulatory maps.

### **Recommendations**

South East LLS encourages ESC to protect high quality agricultural land and zone other areas appropriately after considering regulatory maps.

Planning for increased lots and dwellings should minimise the impact on productive agricultural lands and intact native vegetation and be in adherence with the NSW Biosecurity Strategy 2013-2021 and State policy objectives in relation to biosecurity.

## Item 7: Remove Terrestrial Biodiversity Map

As previously submitted to ESC South East LLS does not support removal of the Terrestrial Biodiversity Map from the ELEP 2012 or its replacement with a Native Vegetation overlay limited to extant vegetation and placed in a Code referenced in relevant DCPs.

South East LLS continues to maintain that the combined use of appropriate land zoning and overlays within the LEP provides landholders with optimum levels of certainty, flexibility and realistic expectations for development.

The current Terrestrial Biodiversity overlay identifies EECs. Without reference to EECs in the overlay, proponents may not be aware of the need to consider impacts on these ecosystems

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<sup>2</sup> GBPS, 2016. Eurobodalla Rural Strategy Discussion Paper 2: Commercial Scale Agricultural Directions. Accessed online 14/6/2018 at <http://www.esc.nsw.gov.au/inside-council/project-and-exhibitions/rural-lands-strategy>

and species through their development proposal. Clearly identifying these values on the overlay supports landholders to develop their land accordingly.

Removing this information increases the complexity for landholders and raises the risk of breaching Part 2 of the *Biodiversity Conservation Act* or *Environment Protection and Biodiversity Conservation Act 1999*.

In addition, threatened grassy ecosystems e.g. Themeda Grasslands may not be identified on the Vegetation Overlay and therefore missed during the development assessment process.

### **Recommendations**

South East LLS recommends that ESC retain the Terrestrial Biodiversity Overlay and clause 6.6 of the ELEP 2012 to ensure landholders have certainty, flexibility and realistic expectations for development.

Yours sincerely,

Anthony Marshall  
General Manager  
South East LLS